IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE NO. 313 OF 1983

Shri Shantilal Hematlal, (Smaller HU),
Upleta   .. Applicant

 Versus

The Commissioner of Income Tax, Rajkot .. Rajkot

 Date of Decision : 29th November 1996

For Approval and Signature

THE HONOURABLE MR. JUSTICE R.K. ABICHANDANI

THE HONOURABLE MR. JUSTICE RAJESH BALIA

1. Whether Reporters of Local Papers may be allowed
      to see the judgement?

2. To be referred to the Reporter or not?

3. Whether Their Lordships wish to see the fair copy
      of Judgement?

4. Whether this case involves a substantial question
      of law as to the interpretation of the
      Constitution of India, 1950 or any order made
      thereunder?

5. Whether it is to be circulated to the Civil Judge?

Mr. D.A. Mehta with Mr. R.K. Patel and Mr. B.D.Karia
for applicant
Mr.Bharat J. Shelat instructed by Mr. Manish R.   Bhatt
for respondent

 Coram : R.K. Abichandani and Rajesh Balia, JJ
 29th November 1996

Oral Judgement (Per Rajesh Balia, J)

1. Both learned counsel for the parties state that in view of the decision given by this Court in ITR 306 of 1983 and 308 of 1983 in the case of M/s. Shantilal Himatlal, individual v. C.I.T. raising identical questions of law arising out of same partial partition of Rs.1,91,000/- of bigger HUF of Shantilal Himatlal amongst himself, his three sons and allotment of shares to wife and daughter of Shantilal, this Court (Coram : S.M.Soni and Y.B. Bhatt, JJ) on 24.10. 1996 has held that facts placed on record are either incomplete or insufficient and has declined to answer the question and remanded the matter back to the Tribunal to dispose of the same in accordance with law after ascertaining relevant facts. The learned counsel have urged that the same course may be adopted in this case as well without referring to the merits of the contentions. Accordingly, as per the request made at Bar, we decline to answer the questions and remand the matter back to the Tribunal to dispose of the same in accordance with law for ascertaining the relevant facts. No costs.

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